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SECURITY CLASSIFICATION

NSA STAFF PROCESSING FORM

TO: DIRECTOR	EXREG CONTROL NUMBER: 94060	KCC CONTROL NUMBER: IG-10435-04	
THRU: D/DIR	ACTION: ☐ APPROVAL ☒ SIGNATURE ☐ INFORMATION	EXREG SUSPENSE	
SUBJECT: (U//~~FOUO~~) Quarterly Report to the Intelligence Oversight Board on NSA Activities—Fourth Quarter FY04		KCC SUSPENSE	
		ELEMENT SUSPENSE	
DISTRIBUTION: OGC			

SUMMARY

PURPOSE: (U//~~FOUO~~) To forward to the Intelligence Oversight Board (IOB) of the President's Foreign Intelligence Advisory Board, via the Assistant to the Secretary of Defense for Intelligence Oversight (ATSD(IO)), NSA's quarterly report on its intelligence activities.

BACKGROUND: (U//~~FOUO~~) Executive Order 12333 and Executive Order 12863 require Intelligence Community agency heads and Intelligence Community General Counsels and Inspectors General, respectively, to report to the IOB on a quarterly basis concerning intelligence activities that they have reason to believe may be unlawful or contrary to Executive Order or Presidential Directive. The enclosed memorandum covers all reportable activities known to the Inspector General and General Counsel. Per PIOB letter of 6 August 1982, Agency heads are responsible for reporting separately any additional reportable activities known to them, unless the President has specifically instructed that the Board is not to be informed. The Director's signature signifies that no other activities that require reporting are known to him.

RECOMMENDATION: (U) Director sign the enclosed memora

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COORDINATION/APPROVAL

OFFICE	NAME AND DATE	SECURE PHONE	OFFICE	NAME AND DATE	SECURE PHONE
GC	Robert L. [redacted]	5548s	[redacted]	[redacted] 11/23	963-3201
AGC(O)	[redacted]	3121s			
IG	Joel F. Brenner	3544s			
D/IG	[redacted]	3544s			
AIG(IO)	[redacted]	3544			

Approved for Release by NSA on 12-19-2014, FOIA Case # 70809 (Litigation)

ORIGINATOR	ORG	PHONE (Secure)	DATE PREPARED
[redacted]	D11	963-2984	09 November 2004

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1. (U) INSPECTOR GENERAL ACTIVITIES

a. ~~(C//SI)~~ During this quarter, the Office of Inspector General (OIG) reviewed various intelligence activities of the National Security Agency/Central Security Service (NSA/CSS) to determine whether they were conducted in accordance with applicable statutes, Executive Orders (EO), Attorney General procedures, and Department of Defense (DoD) and internal directives. With few exceptions, the issues presented were routine and indicated that the operating elements understand the restrictions on NSA/CSS activities.

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b. ~~(C)~~ The OIG conducted a review of NSA's management of electronic surveillance activities carried out under the Foreign Intelligence Surveillance Act (FISA) of 1978. In general terms, the review found that those activities ensure that the rights of U.S. persons are protected; however, the Agency's management of the internal FISA process is not completely effective and efficient. The process sometimes takes longer than necessary when time is of the essence and engenders confusion that has, on occasion, led to missed opportunities for timely collection. The OIG recommended improvements in the written guidance that defines authorities and assigns roles and responsibilities, step-by-step instructions to guide FISA process participants, the need for tailored training on FISA operational aspects, and meaningful metrics to gauge the efficiency of the process. NSA management has agreed to implement all recommendations.

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c. (U//~~FOUO~~) The NSA OIG, with [redacted] A program strength was that [redacted] had an embedded requirements manager who assessed IO implications of all EO 12333–related tasking. Employee knowledge levels were satisfactory and there were no violations of applicable laws, executive order, regulations, or policies noted, but the inspectors identified weaknesses in program management documentation and training and reporting compliance methods. The NSA OIG has tasked [redacted] to develop and document standard operating procedures for the IO program and to report IO activities quarterly to the NSA OIG. The NSA OIG will track the action through completion. (b)(3)-P.L. 86-36

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d. ~~(C//REL)~~ Along with inspectors from [redacted] the NSA OIG completed the joint inspection of [redacted] The inspection report noted that the site's intelligence oversight program manager is visible and is actively involved in training and operations. Comprehension of initial and refresher IO training is measured through web-based testing. Two weaknesses of the program were the lack of an implementing instruction detailing IO roles, responsibilities and program management procedures, and the lack of a complete list of raw traffic database auditors. The NSA OIG tasked the [redacted]

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(b)(3)-50 USC 3024(i)

[redacted] to prepare an operating instruction to detail the IO roles, responsibilities and procedures for the workforce, to designate and publish a list of primary and secondary auditors to review interactive raw traffic databases, and to ensure that the auditors receive appropriate training in database audits. The NSA OIG will track the action through completion.

2. (U) GENERAL COUNSEL ACTIVITIES

~~(C//SI)~~ The NSA Office of General Counsel (OGC) reviewed various intelligence activities of the NSA/CSS to determine whether they were conducted in accordance with applicable statutes, EO, Attorney General (AG) procedures, and DoD and internal directives. The OGC advised Agency elements on a number of questions, including the collection and dissemination of communications of or concerning U.S. persons (USP); the reporting of possible violations of federal criminal law contained in SIGINT product; the testing of electronic equipment; and the applicability of the FISA. With few exceptions, the issues presented were routine and indicated that the operating elements understand the restrictions on NSA/CSS activities. The OGC did not file any reports with the Intelligence Oversight Board during this quarter.

3. (U) SIGINT ACTIVITIES

a. ~~(S//SI)~~ Collection Against U.S. Persons

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(1) (U) Intentional

a. ~~(S//SI)~~ During this quarter, the Deputy Director of the National Security Agency (D/DIRNSA) granted approval for consensual collection against [redacted] U.S. persons. D/DIRNSA-approved consensual collection against [redacted] U.S. persons was routinely terminated this quarter.

b. ~~(S//SI)~~ The AG granted authority to collect the communications of [redacted] U.S. persons during this quarter.

(2) (U) Unintentional

a. ~~(S//SI)~~ As mentioned in our 13 September 2004 report, several [redacted] communications were inadvertently collected from a [redacted] Upon further investigation, the cause of the error was isolated to a [redacted] and it was corrected to restore the integrity of collection.

b. ~~(S//SI//NF)~~ This quarter, unintentional retrievals using the [redacted] raw traffic files resulted in

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(b)(3)-50 USC 3024(i)

two incidents against U.S. persons overseas. Both incidents were reported to responsible oversight officials and corrective actions were taken. All unauthorized traffic collected has been destroyed.

b. (U//~~FOUO~~) Dissemination of U.S. Identities

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(1) (U) Intentional

~~(S//SI)~~ In accordance with section 7 of USSID 18, U.S. identities were disseminated [redacted] times during this quarter. The following table shows the justification and the number of instances of dissemination: In the "Unmasked by Analyst" column, the U.S. identity was revealed in a serialized end product; in the "Unmasked at User Request" column, a U.S. identity was released to a user at the user's request.

JUSTIFICATION	Unmasked by Analyst	Unmasked at User Request	TOTAL
7.2.c Necessary			
7.2.c.1 Foreign Official			
7.2.c.3 International Narcotics			
7.2.c.4 Criminal Activity			
7.2.c.7 U.S. Government Official			
TOTAL			

(2) (U) Unintentional

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a. ~~(S//SI)~~ During this quarter the Signals Intelligence Directorate (SID) cancelled [redacted] SIGINT products because they contained the identities of U.S. persons, organizations, or entities; those products that contained information derived from communications of U.S. persons were not reissued.

b. ~~(TS//SI//~~[redacted] released a total of [redacted] reports containing the identities of U.S. persons or based on the communications of persons later identified as U.S. persons. In all instances, [redacted] cancelled the reports, which were either not reissued or were reissued with the proper minimization.

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(3) (U) Raw Traffic Dissemination Outside the SIGINT Production Chain

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~~(S//SI)~~ The SID ensures that the personnel are trained by the OGC on NSA's legal restrictions and on proper handling and dissemination of SIGINT data Personnel working in or with SID during this quarter included representatives of

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4. (U) Other Activities

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(b)(3)-18 USC 798
(b)(3)-50 USC 3024(i)

a. (U//~~FOUO~~) FISA Incidents

~~(TS//NF)~~ The inquiry into of transcripts based on communication from (see our report dated 9 June 2004) has concluded. Although the intercept of the communication was destroyed as required, the corresponding transcripts were retained improperly. The reason for the non-compliance was a misunderstanding by the analyst who believed that the transcripts were not communications as defined in USSID 18. All transcripts were deleted from the database. SID provided training on USSID 18 and FISA procedures to the Staff. A review of is scheduled for this fiscal year.

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b. (U) Assistance to Law Enforcement

~~(S//SI)~~ During this quarter, the SID responded to requests for technical assistance from law enforcement, including requests from

c. (U) Working Aids

(U//~~FOUO~~) The SID Office of Oversight and Compliance maintains "U.S. Identities in SIGINT" and a matrix of blanket reporting waivers on its web page for use by the NSA/CSS Enterprise. The E.O., NSA/CSS Policy Number 1-23, DoD Regulation 5240.1-R, and USSID 18 are also available on-line.

NATIONAL SECURITY AGENCY
CENTRAL SECURITY SERVICE
FORT GEORGE G. MEADE, MARYLAND 20755-6000

29 November 2004

MEMORANDUM FOR THE CHAIRMAN, INTELLIGENCE OVERSIGHT BOARD

THRU: Assistant to the Secretary of Defense (Intelligence Oversight)

SUBJECT: (U//~~FOUO~~) Report to the Intelligence Oversight Board on NSA Activities - INFORMATION MEMORANDUM

(U//~~FOUO~~) Except as previously reported to you or the President, or otherwise stated in the enclosure, we have no reason to believe that any intelligence activities of the National Security Agency during the quarter ending 30 September 2004 were unlawful or contrary to Executive Order or Presidential Directive, and thus required to be reported pursuant to Section 1.7.(d) of Executive Order 12333.

(U//~~FOUO~~) The Inspector General and the General Counsel continue to exercise oversight of Agency activities by means of inspections, surveys, training, review of directives and guidelines, and advice and counsel. These activities and other data requested by the Board or members of the staff of the Assistant to the Secretary of Defense (Intelligence Oversight) are described in the enclosure.

JOEL F. BRENNER
Inspector General

ROBERT L. DEITZ
General Counsel

(U//~~FOUO~~) I concur in the report of the Inspector General and the General Counsel and hereby make it our combined report.

MICHAEL V. HAYDEN
Lieutenant General, USAF
Director, NSA/Chief, CSS

Encl:
Quarterly Report

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Dated: 24 February 1998
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